

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

2000-11-03 10:00 AM  
**ORIGINAL**  
**RECEIVED**

NOV 3 2000

In the Matter of )

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Federal-State Joint Board on  
Universal Service )

CC Docket No. 96-45

Comments on the Rural Task Force  
Recommendation – FCC-00J-3 )

**VALOR TELECOMMUNICATIONS ENTERPRISES, LLC'S COMMENTS ON  
THE RURAL TASK FORCE RECOMMENDATION TO THE FEDERAL-STATE  
JOINT BOARD ON UNIVERSAL SERVICE**

Valor Telecommunications Enterprises, LLC (VALOR), by its attorneys, hereby comments on the Recommendation of the Rural Task Force (RTF) to the Federal-State Joint Board on Universal Service concerning high cost universal service support for rural carriers. Specifically, VALOR's comments focus on the RTF's recommendation concerning support for rural exchanges that have been sold or transferred. VALOR is a newly formed holding company whose wholly-owned subsidiary operating companies have purchased various exchanges in Oklahoma, New Mexico and Texas from GTE Southwest Incorporated (GTE). The study areas in New Mexico and Texas are classified as rural. The recommendation of the RTF, therefore, will have a direct effect on the operations of VALOR.

In the Recommendation, the RTF states that it has concerns that Section 54.305 of the Commission's current rules, which provides that per-line support for a transferred exchange remains equal to the per-line amount of support that the seller was eligible to receive prior to the transfer, limits the ability of acquiring carriers to make new investments to upgrade their networks. Accordingly, the RTF recommends that the FCC establish a "safety valve mechanism"

Re: of Office memo  
List ABOVE

074

for rural carriers which acquire access lines due to sale or merger that would provide some additional universal service support for new investments. In developing a safety valve mechanism, the RTF agreed that certain principles should be applied including the principle that a mere transfer of ownership should not result in an increase in support. However, where meaningful new post-transaction investments are made to enhance the infrastructure and improve service, support to high cost rural exchanges involved in sale/transfer transactions should be provided.

The RTF also provides an illustration of how a safety valve mechanism would work. As shown in the RTF's illustration, the safety valve universal service support would be additional high cost loop (HCL) support, over and above the support transferable to the study area under the provisions of Section 54.305. According to the illustration, at the end of the first year of operations a study area HCL "expense adjustment" would be calculated (the "index year expense adjustment"). At the end of each subsequent year, a study area HCL "expense adjustment" would be calculated and compared to the "index year expense adjustment." Fifty percent of any positive difference between the subsequent year "expense adjustment" and the "index year expense adjustment" would be designated as the safety valve adjustment and would be provided as universal service support to the study area in addition to amounts available under Section 54.305. However, the sum of the safety valve adjustments for all study areas would not exceed 5 percent of the indexed HCL fund cap for Rural Carriers.

VALOR supports the RTF's general recommendation that a safety valve should be developed to allow acquiring rural carriers to receive universal service support to offset the infrastructure improvements made after the sale or transfer of lines. As indicated by the RTF, Section 54.305 of the Commission's current rules limits the ability of acquiring carriers to make

the necessary investments to upgrade networks and to ensure that customers in rural areas have access to services that are comparable to those in urban areas. Similar concerns with Section 54.305 were recognized by the Joint Board in its recent Recommended Decision concerning hold-harmless universal service support, in which the Joint Board stated that the rule has “negative consequences” with regard to transfers of exchanges between carriers that are not both receiving support based on the forward-looking mechanism because it “prevents the acquiring carrier from receiving an amount of support related to the costs of providing supported services in the transferred exchange.”<sup>1</sup>

VALOR, which purchased predominantly small, rural exchanges, with low teledensity and high costs in the states of Texas and New Mexico, is a case in point. Although Section 54.305 limits VALOR’s high cost support to the amount received by GTE, VALOR is committed to not only maintaining universal service but also to providing new technology and services to these remote exchanges at just and reasonable rates. For example, VALOR’s planned capital expenditures for the first five years of operation total approximately \$83 million in New Mexico, to improve existing services, support future growth and deploy new enhanced and advanced services. Specifically, VALOR is investing in local loop infrastructure that will enhance the quality of basic local exchange service and allow VALOR to provide new service by freeing up copper pairs and allowing the removal of small pair-gain devices that currently slow dial-up Internet traffic. VALOR also is upgrading the hardware and software in switches that are currently incapable of supporting custom local area signaling services (CLASS), such as Caller ID, call waiting, call forwarding, and three-way calling.

---

<sup>1</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, FCC 00J-1, at ¶20, released June 30, 2000 (Recommended Decision).

VALOR is replacing, where necessary, non-fiber facilities and upgrading fiber optic terminals to accommodate high-bandwidth interoffice transport and high-speed data and other enhanced and advanced services such as Internet service and digital subscriber line (DSL) service. VALOR also is deploying modem pools and routers to support local dial-up Internet Access, and, if necessary, ATM switches to support higher bandwidth services.

Similarly, in Texas, VALOR is upgrading central office switches in order to provide CLASS services within eighteen months of closing. VALOR committed to deploy DSL service to ten exchanges within eighteen months of closing and, upon receiving a minimum number of orders, to provide DSL service (or equivalent broadband technology) to any of its other exchanges within fifteen months of receiving a bona fide request. VALOR also committed to provide dial-up Internet access to every exchange within eighteen months of closing.

The RTF's recommendation, which would allow VALOR to recover some portion of these investments, is consistent with the principle that consumers in rural and high-cost areas should have access to telecommunications and information services at rates that are reasonably comparable to those in urban areas. A mechanism, like the one proposed by the RTF, also would help to alleviate the "negative consequences" of Section 54.305 identified by the Joint Board namely, that acquiring carriers are prevented from receiving an amount of support related to the costs of providing supported services in the transferred exchange. The RTF's recommendation also is in keeping with the requirements of the Communications Act in ensuring adequate universal service support for rural areas. VALOR believes, however, that the recommendation may not allow adequate recovery of new investments and requests that the Joint Board evaluate whether the fifty percent limitation and the five percent cap on the safety valve adjustment are consistent with the requirement of ensuring adequate universal service support for rural areas.

## **CONCLUSION**

Based on the foregoing, VALOR urges the Joint Board to adopt the RTF's recommendation and develop a mechanism that allows for additional universal service support for new investments made in connection with acquired lines. VALOR further requests that the Joint Board consider whether any differing treatment following the sale of exchanges is warranted.

Respectfully submitted,

VALOR TELECOMMUNICATIONS  
ENTERPRISES, LLC

By:  

Benjamin H. Dickens, Jr.  
Mary J. Sisak  
Its Attorneys

Blooston, Mordkofsky, Jackson & Dickens  
2120 L Street, NW  
Suite 300  
Washington, DC 20037  
(202) 659-0830

Dated: November 3, 2000

## **CERTIFICATE OF SERVICE**

I, Althea B. Pierce, do hereby certify that on this, the 3rd day of November, 2000, a copy of the foregoing comments was served by first class United States mail, postage prepaid or hand-delivered, to the parties listed below:

The Honorable Susan Ness  
Commissioner, FCC Joint Board Chair  
Federal Communications Commission  
445 12th Street, SW, Room 8-B115H  
Washington, DC 20554

The Honorable Harold Furchtgott-Roth  
Commissioner  
Federal Communications Commission  
445 12th Street, SW, Rm. 8-B115H  
Washington, DC 20554

The Honorable Gloria Tristani  
Commissioner  
Federal Communications Commission  
445 12th Street, S.W., Rm. 8-B115H  
Washington, DC 20554

The Honorable Laska Schoenfelder  
Commissioner, State Joint Board Chair  
South Dakota Public Utilities Commission  
State Capitol, 500 East Capitol Street  
Pierre, SD 57501-5070

The Honorable Martha Hogerty  
Public Counsel  
Missouri Office of Public Counsel  
301 West High St.  
Suite 250  
Truman Building  
P.O. Box 7800  
Jefferson City, MO 65102

The Honorable Bob Rowe  
Commissioner  
Montana Public Service Commission  
1701 Prospect Avenue  
P.O. Box 202601  
Helena, MT 59620-2601

The Honorable Patrick H. Wood, III  
Chairman  
Texas Public Utility Commission  
1701 North Congress Avenue  
P.O. Box 13326  
Austin, TX 78711-3326

The Honorable Nanette G. Thompson  
Chair  
Regulatory Commission of Alaska  
1016 West Sixth Avenue, Suite 400  
Anchorage, AK 99501-1693

Rowland Curry  
Chief Engineer  
Texas Public Utility Commission  
1701 North Congress Avenue  
P.O. Box 13326  
Austin, TX 78701-3326

Greg Fogleman  
Economic Analyst  
Florida Public Service Commission  
2540 Shumard Oak Blvd  
Gerald Gunter Bldg.  
Tallahassee, FL 32399-0850

Mary E. Newmeyer  
Federal Affairs Advisor  
Alabama Public Service Commission  
100 N. Union Street, Ste. 800  
Montgomery, AL 36104

Joel Shifman  
Senior Advisor  
Maine Public Utilities Commission  
242 State Street  
State House Station 18  
Augusta ME 04333-0018

Peter Bluhm  
Director of Policy Research  
Vermont Public Service Board  
Drawer 20  
112 State St., 4th Floor  
Montpieller, VT 05620-2701

Charlie Bolle  
Policy Advisor  
Nevada Public Utilities Commission  
1150 E. Williams Street  
Carson City, NV 89701-3105

Carl Johnson  
Telecom Policy Analyst  
New York Public Service Commission  
3 Empire State Plaza  
Albany, NY 12223-1350

Lori Kenyon  
Common Carrier Specialist  
Regulatory Commission of Alaska  
1016 West 6th Ave, Suite 400  
Anchorage, AK 99501

Susan Stevens Miller  
Assistant General Counsel  
Maryland Public Service Commission  
16th Floor, 6 Paul Street  
Baltimore, MD 21202-6806

Tom Wilson  
Economist  
Washington Utilities & Transportation  
Commission  
1300 Evergreen Park Drive, SW  
P.O. Box 47250  
Olympia, WA 98504-7250

International Transcription Service  
1231 20th Street, NW  
1232 Washington, DC 20037  
(Diskette copy)

Philip McClelland  
Senior Assistant Consumer Advocate  
PA Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5th Floor  
Harrisburg, PA 17101-1923

Barbara Meisenheimer  
Consumer Advocate  
Missouri Office of Public Counsel  
301 West High St., Suite 250  
Truman Building  
P.O. Box 7800  
Jefferson City, MO 65102

Earl Poucher  
Legislative Analyst  
Office of the Public Counsel  
111 West Madison, Rm. 812  
Tallahassee, FL 32399-1400

Ann Dean  
Assistant Director  
Maryland Public Service Commission  
16th Floor, 6 Paul Street  
Baltimore, MD 21202-6806

David Dowds  
Public Utilities Supervisor  
Florida Public Service Commission  
2540 Shumard Oaks Blvd.  
Gerald Gunter Bldg.  
Tallahassee, FL 32399-0850

Sheryl Todd  
Accounting Policy Division  
Common Carrier Bureau  
Federal Communications Commission  
445 12th Street, SW, Room 5-B540  
Washington, DC 20554



Althea B. Pierce